

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7190**

**BILL NUMBER:** HB 1228

**NOTE PREPARED:** Jan 9, 2011

**BILL AMENDED:**

**SUBJECT:** Health Care Professional's Conscience Clause.

**FIRST AUTHOR:** Rep. Davisson

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a health care professional may not be required to dispense a drug or medical device if the drug or medical device would be used to: (1) cause an abortion; (2) destroy an unborn child; or (3) cause the death of a person by means of assisted suicide, euthanasia, or mercy killing. The bill specifies that a health care professional's refusal to dispense a drug or medical device under those circumstances may not be the basis for: (1) a claim of damages against the health care professional, the employer, or the facility; or (2) disciplinary action against the health care professional.

The bill provides that an employer who knowingly or intentionally takes disciplinary, retaliatory, or discriminatory action against a health care professional who refuses to dispense a drug or medical device under those circumstances commits pharmacy discrimination, a Class A misdemeanor. The bill also makes a second or subsequent offense a Class D felony. The bill authorizes the health care professional's licensing board to assess additional fines against the employer.

**Effective Date:** July 1, 2011.

**Summary of NET State Impact:** The bill may increase fine revenue received and/or costs of incarceration based on the number of offenders convicted of pharmacy discrimination, a Class A misdemeanor. Local costs for incarceration could increase if offenders are sentenced to jail terms for a first offense. However, state prison costs could increase if offenders are sentenced for second or subsequent offenses.

Fine revenues for both felonies and misdemeanors are deposited in Common School Fund, and the additional revenue from fines imposed by the Indiana Board of Pharmacy will be deposited in the state General Fund.

**Explanation of State Expenditures:** *Impact on Medical Licensing Board, Indiana State Board of Nursing, and Indiana Board of Pharmacy:* This bill will increase the workload of these three boards to hold hearings to the extent employers are determined to have knowingly or intentionally taken disciplinary action against doctors, nurses, or pharmacists who refused to dispense specified drugs or medical devices.

*Second or Subsequent Offense Penalty:* The bill provides that a second or subsequent offense of an employer knowingly or intentionally taken disciplinary action against doctors, nurses, or pharmacists who refused to dispense specified drugs or medical devices is a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Additional Fines Imposed:* Under the bill, the Indiana Medical Licensing Board, Indiana State Board of Nursing, and Indiana Board of Pharmacy may impose an additional fine of between \$5,000 and \$10,000 on offenders convicted of pharmacy discrimination. Administrative fine revenue is deposited in the state General Fund unless otherwise specified in the statute.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. Additionally, if more defendants are detained in county jails prior to their court hearings for second or subsequent offenses of the bill, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

**Fiscal Analyst:** Bill Brumbach, 232-9559.